

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7716

BILL NUMBER: HB 1553

DATE PREPARED: Apr 30, 2001

BILL AMENDED: Apr 29, 2001

SUBJECT: Independent Contractor Documentation.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (CCR Amended) This bill exempts an owner who contracts for work on the owner's owner-occupied residential property from the requirement that a certificate of worker's compensation insurance be secured from a contractor. It requires an independent contractor to file with the Department of State Revenue a statement and documentation in support of the independent contractor's status, pay a \$5 filing fee, and obtain clearance from the Department before a certificate of exemption is issued. The bill requires the deposit of the filing fee in the Independent Contractor Information Account. The bill also makes a certificate valid for one year. It also requires that a certificate of exemption issued by the Department must be filed with the Worker's Compensation Board and a filing fee of \$15 paid in order to be given effect. The bill requires the deposit of the filing fee in the Worker's Compensation Supplemental Administrative Fund. It provides that a contractor who knowingly or intentionally causes or assists employees to file a false statement and supporting documentation of independent contractor status commits a Class D felony.

The bill also allows the Worker's Compensation Board to impose a civil penalty against a billing review service that uses a noncompliant billing review standard. It raises the assessment limit on the Second Injury Fund from 1.5% to 2.5% of benefits paid in the prior year. This bill requires that all insurance carriers subject to an assessment under the worker's compensation laws provide to the Board at least once each year, and at any time a change occurs, the name, address, and email address of a representative authorized to receive the assessment notice. It allows the Worker's Compensation Supplemental Administrative Fund to be used to pay all expenses incurred by the Worker's Compensation Board. The bill defines "employer" to specify that a parent corporation and its subsidiaries or lessor and lessee of employees are each considered joint employers for purposes of the exclusive remedy and joint service of two or more employers provisions of the Worker's Compensation and Occupational Diseases laws. The bill also provides that the Worker's Compensation Rating Bureau need not investigate rejected risks 90 days before a worker's compensation insurance policy expires. It deletes the requirement that the Bureau must send notice of the investigation to its members 60 days before the policy expires.

Effective Date: July 1, 2001.

Explanation of State Expenditures: (Revised) The bill provides that a contractor who knowingly or intentionally causes or assists employees to file a false affidavit of exemption commits a Class D felony. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,700 in FY 1999. Individual facility expenditures ranged from \$14,936 to \$37,807. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

The provision requiring the Worker's Compensation Board to assign an employee to monitor eligibility of Second Injury Fund recipients would have no impact unless an additional person was added.

The provisions that delete the requirement of the Worker's Compensation Rating Bureau of Indiana to investigate rejected risks 90 days before expiration of a Worker's Compensation Policy and to provide notice of the investigation 60 days expiration of the policy would be a saving to the Bureau.

Explanation of State Revenues: (Revised) The current fee for an independent contract is \$5 with 50% of the fee going to the Worker's Compensation Supplemental Administrative Fund and 50% going to the Independent Contractor Information Account in the State General Fund. The \$5 fee raised \$43,379 in FY 2000. Assuming that the new \$20 fee (\$15 instead of \$2.50 for the Worker's Compensation Supplemental Administrative Fund and \$5 instead of \$2.50 for the Independent Contractor Information Account in the State General Fund) would raise four times the revenue, then the increase in revenue for the Worker's Compensation Supplemental Administrative Fund would be about \$117,000, and the increased revenue for the Independent Contractor Information Account in the State General Fund would be about \$13,000.

If additional court cases occur and fines are collected due to the new Class D felony, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Increasing the assessment limit on the Second Injury Fund from 1.5% to 2.5% of benefits paid in the prior calendar year would generate about \$1,900,000 if the maximum assessment were charged.

Explanation of Local Expenditures: (Revised) If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: (Revised) If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited

into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies, Workers Compensation Board.

Information Sources: Indiana Sheriffs Association, Department of Correction, Workers Compensation Board.